

REMARKS

Status of the Claims

Claims 1-4, 7-12, 14-18, and 21-51 are pending¹.

Claims 1-4, 7-12, 14-18, 21-25, 27-40, and 42-51 are rejected.

Claims 26 and 41 are allowed.

Amendments to the Claims

Examiner indicated that claims 26 and 41 are allowed. In order to expedite issuance of claims drawn to the allowed subject matter, Applicants have canceled all other pending claims, claims 1-4, 7-12, 17, 18, and 21-25, 27-40, and 42-51.

Applicants reserve the right to prosecute claims drawn to the subject matter of the herein canceled claims in a timely filed continuation application.

Rejections under 35 U.S.C. §103(a)

Claims 1-4, 7-12, 14-18, 21-25, 27-40, and 42-51 were rejected under 35 U.S.C. §103(a) over cited art as follows:

Claims 1-3, 7-10, 15-17, 21-24, 27 and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamamoto et al. (US 5,563,070) in view of Kusuzawa (US 5,596,401) and further in view of Noller (US 4,857,735).

Claims 4, 18, 28, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamamoto et al. (US 5,563,070) in view of Kusuzawa (US 5,596,401) and further in view of Noller (US 4,857,735) and further in view of Unterleitner (US 4,498,766).

Claims 11, 12, 14, and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamamoto et al. (US 5,563,070) in view of Kusuzawa (US 5,596,401) and further in view of Noller (US 4,857,735) and further in view of Hoffman et al. (US 5,528,045).

¹ Applicants note that the Office Action Summary incorrectly omitted claims 14 and 15 from the list of pending claims, although claims 14 and 15 were included in the list of rejected claims. The present response assumes that the claim status as stated herein is correct.

Claims 31-33 and 43-45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zarling et al. (US 5,674,698) in view of Noller (US 4,857,735).

Claims 34-38 and 46-50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zarling et al. (US 5,674,698) in view of Noller (US 4,857,735) and further in view of Kusuzawa (US 5,596,401).

Claims 39-40, 42, and 51 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zarling et al. (US 5,674,698) in view of Noller (US 4,857,735) and further in view of Hoffman et al. (US 5,528,045).

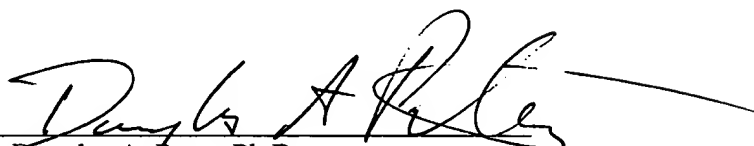
Applicants have canceled claims 1-4, 7-12, 17, 18, and 21-25, 27-40, and 42-51, which comprise all the rejected claims. Applicants request withdrawal of the above rejections under 35 U.S.C. §103(a) in view of the cancellation of the rejection claims.

Conclusion

Applicants believe that the application is in condition for allowance and notice to this effect is respectfully requested. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

3/18/04
Date


Douglas A. Petry, Ph.D.
Reg. No. 35,321
Agent for Applicants
BD Biosciences
2350 Qume Drive
San Jose, CA 95131
Tel: (408) 518-5074
Fax: (408) 954-4122